

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUKE D. BRUGNARA,

Defendant.

No. CR 14-00306 WHA

**ORDER REQUESTING  
SUPPLEMENTAL BRIEFING ON  
SUPERSEDING INDICTMENT  
AND AUGUST 4 TRIAL DATE**


Last week, the government filed a superseding indictment that not only retained this prosecution's mail-fraud charge, but also brought additional charges against defendant — *i.e.*, three counts of wire fraud and two counts of false declarations before court (Dkt. No. 50). “[I]t is the responsibility of defense counsel, the government, and the district court to take affirmative steps to protect a defendant's right to a trial within [seventy] days pursuant to the Speedy Trial Act.” *United States v. Aviles-Alvarez*, 868 F.2d 1108, 1113 (9th Cir. 1989). To meet that seventy-day requirement here, trial is set to begin on August 4, 2014 (Dkt. No. 25).

Our court of appeals has held that “some superseding indictments do not restart the original speedy-trial clock,” where “a superseding indictment merely corrects technical errors but charges again the same offenses . . . .” *United States v. Thomas*, 726 F.3d 1086, 1090 (9th Cir. 2013) (internal citation omitted). Nevertheless, in light of the superseding indictment's additional charges, the undersigned judge requests that the parties file supplemental briefing on whether trial on *all* charges against defendant will still proceed on August 4, 2014. Among other items, please address whether the superseding indictment's additional charges are “not required

1 to be joined with the original charge[]” of mail fraud, such that they “come with a *new seventy-*  
2 *day clock under the Speedy Trial Act.*” *Id.* at 1091 (emphasis added). Each side’s supplemental  
3 briefing is limited to **FIVE PAGES**. Given the fast-approaching trial date, both sides will file their  
4 supplemental briefing by **7 AM ON JULY 23, 2014**.

5  
6 **IT IS SO ORDERED.**

7  
8 Dated: July 21, 2014.

  
\_\_\_\_\_  
9 WILLIAM ALSUP  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28